

1 HOUSE BILL NO. 160

2 INTRODUCED BY J. ANDERSEN

3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SPECIAL EDUCATION FUNDING FORMULA TO
6 ESTABLISH FIXED LIMITS FOR DISTRIBUTION OF THE STATE'S TOTAL SPECIAL EDUCATION
7 ALLOCATION; LIMITING DISTRIBUTION OF THE TOTAL ALLOCATION TO 52.5 PERCENT FOR
8 INSTRUCTIONAL BLOCK GRANTS, 25 PERCENT FOR REIMBURSEMENT OF DISTRICTS WHOSE SPECIAL
9 EDUCATION COSTS EXCEED THE RELATED SERVICES BLOCK GRANT PLUS THE REQUIRED DISTRICT
10 MATCH, 17.5 PERCENT TO RELATED SERVICES BLOCK GRANTS, AND 5 PERCENT FOR SPECIAL
11 EDUCATION COOPERATIVE AND JOINT BOARD ADMINISTRATION AND TRAVEL; ELIMINATING THE
12 REQUIREMENT TO DISTRIBUTE TO DISTRICTS PRO RATA SHARES OF AVAILABLE SPECIAL EDUCATION
13 APPROPRIATIONS WHEN TOTAL SPECIAL EDUCATION COSTS EXCEED LEGISLATIVE APPROPRIATIONS;
14 AMENDING SECTIONS 20-7-431 AND 20-9-321, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN
15 APPLICABILITY DATE."

16

17 WHEREAS, state funding for special education has not kept pace with school districts' required
18 special education expenditures, which has caused a financial shift under the formula from providing
19 districts with block grants to reimbursing districts for disproportionate special education costs; and

20 WHEREAS, this financial shift has made a school district's funding level less predictable, and those
21 districts receiving reimbursements for disproportionate costs have not been adequately compensated for
22 extraordinarily high special education costs; and

23 WHEREAS, a revision of the current special education funding formula is necessary to stabilize the
24 proportion of the state appropriation for special education that is distributed through block grants and for
25 special education cooperative administration and travel.

26

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

28

29 **Section 1.** Section 20-7-431, MCA, is amended to read:30 **"20-7-431. Allowable cost schedule for special programs -- superintendent to make rules -- annual**

1 **accounting.** (1) For the purpose of determining the allowable cost payment amount for special education
2 as defined in 20-9-321, the following allowable costs and reports must be reviewed by the superintendent
3 of public instruction for the purposes of determining the amount of the allowable cost payment for special
4 education payments and a district's special education expenditures:

5 (a) instruction: salaries, benefits, supplies, textbooks, and other expenses, including:

6 (i) the cost of salaries and benefits of special program teachers, regular program teachers, and
7 teacher aides, corresponding to the working time that each person devotes to the special program;

8 (ii) the total cost of teaching supplies and textbooks for special programs;

9 (iii) the purchase, rental, repair, and maintenance of instructional equipment required to implement
10 a student's individualized education program;

11 (iv) activities associated with teacher assistance teams that provide prereferral intervention;

12 (v) the cost of contracted services, including fees paid for professional advice and consultation
13 regarding special students or the special program, and the delivery of special education services by public
14 or private agencies;

15 (vi) transportation costs for special education instructional personnel who travel on an itinerant
16 basis from school to school or district to district or to in-state child study team meetings or in-state
17 individualized education program meetings;

18 (b) related services, including:

19 (i) the cost of salaries and benefits of professional supportive personnel, corresponding to the
20 working time that each person devotes to the special program. Professional supportive personnel may
21 include special education supervisors, speech-language pathologists, audiologists, counselors, social
22 workers, psychologists, psychometrists, physicians, nurses, and physical and occupational therapists.

23 (ii) the cost of salaries and benefits of clerical personnel who assist professional personnel in
24 supportive services, corresponding to the working time that each person devotes to the special program;

25 (iii) the cost of supplies for special programs;

26 (iv) activities associated with teacher assistance teams that provide prereferral interventions;

27 (v) the cost of contracted services, including fees paid for professional advice and consultation
28 regarding special students or the special program, and the delivery of special education services by public
29 or private agencies;

30 (vi) transportation costs for special ~~education-related~~ education-related services personnel who

1 travel on an itinerant basis from school to school or district to district or to in-state child study team
2 meetings or in-state individualized education program meetings;

3 (vii) equipment purchase, rental, repair, and maintenance required to implement a student's
4 individualized education program;

5 (viii) the additional cost of special education cooperatives or joint boards, including operation and
6 maintenance, travel, recruitment, and administration.

7 (2) The superintendent of public instruction shall adopt rules in accordance with the policies of
8 the board of public education for keeping necessary records for supportive and administrative personnel
9 and any personnel shared between special and regular programs.

10 (3) An annual accounting of all expenditures of school district general fund money for special
11 education must be made by the district trustees on forms furnished by the superintendent of public
12 instruction. The superintendent of public instruction shall make rules for the accounting.

13 (4) Allowable costs prescribed in this section do not include the costs of the teachers' retirement
14 system, the public employees' retirement system, or the federal social security system; or the costs for
15 unemployment compensation insurance.

16 (5) ~~(a)~~ Notwithstanding other provisions of the law, the superintendent of public instruction may
17 not approve an allowable cost payment amount for special education that exceeds legislative
18 appropriations; ~~however,~~ However, any unexpended balance from the first year of a biennial appropriation
19 may be spent in the second year of the biennium in addition to the second year appropriation.

20 ~~(b) If the total special education allowable cost payment, as determined in 20-9-321, exceeds~~
21 ~~legislative appropriations available for special education, each district shall receive a pro rata share of the~~
22 ~~available appropriations."~~

23

24 **Section 2.** Section 20-9-321, MCA, is amended to read:

25 **"20-9-321. Allowable cost payment for special education.** (1) For the purpose of establishing the
26 allowable cost payment for a current year special education program for a school district, the
27 superintendent of public instruction shall determine the total special education payment to a school district,
28 cooperative, or joint board for special education services formed under 20-3-361 prior to July 1, 1992,
29 using the following factors:

30 (a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

- (b) a per-ANB amount for the special education instructional block grant;
- (c) a per-ANB amount for the special ~~education-related~~ education-related services block grant;
- (d) ~~weighted cost factors~~ an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate for the additional costs of operations and maintenance, travel, supportive services, recruitment, and administration; and
- (e) ~~district and cooperative expenditure reports; and~~
- ~~(f)~~ any other data required by the superintendent of public instruction to administer the provisions of this section.

(2) (a) The total special education allocation must be distributed according to the following formula:

- (i) 52.5% through instructional block grants;
- (ii) 17.5% through related services block grants;
- (iii) 25% to reimbursement of local districts; and
- (iv) 5% to special education cooperatives and joint board for administration and travel.

(b) Special education allowable cost payments outlined in subsection (2)(a) must be granted to each school district and cooperative with a special education program as follows:

~~(a)(i) An~~ The instructional block grant limit prescribed in subsection (2)(a)(i) must be awarded to each school district, based on the district ANB and the per-ANB special education instructional amount.

~~(b)(ii) A~~ The special ~~education-related~~ education-related services block grant limit prescribed in subsection (2)(a)(ii) must be awarded to each school district that is not a cooperative member, based on the district ANB and the per-ANB special ~~education-related~~ education-related services amount, or to a cooperative or joint board that meets the requirements of 20-7-457. The special ~~education-related~~ education-related services block grant amount for districts that are members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board. ~~If a cooperative or joint board meets the requirements of 20-7-457, the special education-related services block grant must be weighted for the factors in subsection (1)(d).~~

~~(3) The superintendent of public instruction shall annually determine the per-ANB special education instructional and special education-related services block grant amounts based on the prior years' trustees' expenditure data for special education instruction and related services.~~

(iii) If a district's allowable costs of special education exceed the total of the special education

instructional and special education-related services block grant plus the required district match required by subsection (4), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the reimbursement to a district does not exceed the 25% of the total special education allocation limit established in subsection (2)(a)(iii), reimbursement must be made in descending order, with funding going first to those districts whose costs exceeded the block grant plus the required district match by the greatest proportion TOTAL OF REIMBURSEMENTS TO ALL DISTRICTS DOES NOT EXCEED 25% OF THE TOTAL SPECIAL EDUCATION ALLOCATION LIMIT ESTABLISHED IN SUBSECTION (2)(A)(III), REIMBURSEMENT MUST BE MADE TO DISTRICTS FOR AMOUNTS THAT EXCEED A THRESHOLD LEVEL CALCULATED ANNUALLY BY THE OFFICE OF PUBLIC INSTRUCTION. THE THRESHOLD LEVEL IS CALCULATED AS A PERCENTAGE AMOUNT ABOVE THE SUM OF THE DISTRICT'S BLOCK GRANTS PLUS THE REQUIRED DISTRICT MATCH.

(iv) Of the amount distributed under subsection (2)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

(4)(3) The superintendent of public instruction shall adopt rules necessary to implement this section.

(5)(4) A district shall provide a 25% local contribution for special education, matching every \$3 of state special education instructional and special ~~education-related~~ education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special ~~education-related~~ education-related services grant amount to the special education cooperative, ~~but the district is not required to match the weighted funding factors.~~

(6)(5) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

~~(7) If a district's allowable costs of special education, as verified by the trustees' reports, exceed by at least 10% the total of the special education instructional and special education-related services block grant plus the required district match, the district is eligible for a 65% reimbursement of the costs that exceed the additional 10%.~~

(6) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement

1 for the year in which the actual costs will be incurred."

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3 NEW SECTION. **Section 3. Effective date -- applicability.** [This act] is effective July 1, 2001, and

4 applies to school budgets for fiscal school years beginning on or after July 1, 2001.

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